

Message Text

SECRET

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ACTION SS-25

INFO OCT-01 ISO-00 SSO-00 /026 W
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O 080940Z JUL 76

FM AMEMBASSY CAIRO

TO SECSTATE WASHDC IMMEDIATE 5058

S E C R E T SECTION 1 OF 2 CAIRO 9232

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EXDIS

FOR S/AL AMBASSADOR LEARSON FROM OXMAN

E.O. 11652: GDS

TAGS: PLOS

SUBJ: LOS

1. COPY OF DRAFT MEMORANDUM FOR THE SECRETARY JUST RECEIVED. MEETING SCHEDULED HERE AND SENSITIVITY OF ISSUES INVOLVED NECESSARY RESTRAINT ON TIME AVAILABLE FOR REVIEW AND COMMENT.

2. GENERAL COMMENTS.

A. WHILE THE BASIC FOCUS OF PAPER SHOULD BE OUTSTANDING ISSUES, AND INTRODUCTION ON THE OVERALL SITUATION IS NECESSARY TO REFRESH THE SECRETARY'S RECOLLECTION OF THE OVERALL NATURE OF ISSUES INVOLVED, AND TO BRING HIM UP TO DATE ON WHERE THEY STAND. PERHAPS THE BEST VEHICLE WOULD BE A SUMMARY OF MAJOR PORTIONS OF REVISED SNT, AND BRIEF COMMENT ON THEIR RELATIONSHIP TO US OBJECTIVES. IN MY VIEW THIS SHOULD NOT RPT NOT BE AN ANNEX, AS THE SECRETARY'S EVALUATION OF THE TEXT AS WHOLE IS CENTRAL TO HIS JUDGMENT ON INDIVIDUAL ISSUES. MOREOVER, OTHER DELEGATES WILL RP WILL RAISE QUESTIONS WITH SECRETARY ON IMPORTANT MATTERS WE CONSIDER BASICALLY SETTLED (EG. TRAITS); ACCORDINGLY, HE MUST HAVE SOME FAMILIARITY WITH HOW THEY ARE TREATED IN THE TEXT, AND WHAT OUR ATTITUDE IS.

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B. THE MEMORANDUM DOES NOT PLACE SQUARELY BEFORE THE

SECRETARY THE BASIC PROBLEM FOR THE NEXT SESSION. DO WE
(A) MAKE AN ALL OUT EFFORT TO GET A TREATY, (B) DO THE BEST WE
CAN BUT RECONCILE OURSELVES TO STILL ANOTHER SESSION BUT TRY TO
HOLD OFF MINING LEGISLATION, OR (C) RECONCILE OURSELVES TO
LIKELY COLLAPSE OF THE NEGOTIATIONS AS A RESULT OF MINING
LEGISLATION. ASSUMING THE CHOICE IS (A) OR (B) THE QUESTION IS
THEN AT WHAT COST? WITHOUT THE MATERIAL I SUGGEST IN SUBPARA (A)
ABOVE, A JUDGEMENT CANNOT BE MADE.

C. IT IS YEARS SINCE ANY MEMORANDUM THE SECRETARY MIGHT HAVE
READ DEALT WITH THE CONSEQUENCES OF NON-AGREEMENT. AS BUT
ONE EXAMPLE, YOU MAY BE INTERESTED TO KNOW THAT AMBASSADOR
TOON AND I HAD A BRIEF BUT SERIOUS DISCUSSION OF THE POSSIBILITIES
OF A RED SEA WAR IF SOMALIA'S 200- MILE TERRITORIAL SEA
CLAIM PRODUCES A DOMINO EFFECT IN THE RED SEA (SUDAN
PRESUMABLY BEING NEXT). THE ASSUMPTION THAT THE SECRETARY'S
CHOICES PIT ECONOMICS AGAINST SECURITY IS INVALID: WARS
INVOLVING IMPORTANT US INTERESTS CAN COST US A GREAT DEAL
IN CASH ALONE. MOREOVER, THE TACIT ASSUMPTION THAT US
MULTINATIONAL CORPORATIONS THAT TRY TO ENGAGE IN UNILATERAL
MINING WILL NOT BE SUBJECT TO LDC INFLIENCED POLITICAL
OR ECONOMIC MEASURES THAT DETER INVESTMENT IS NOT QUESTIONED.
I WOULD AGREE THAT WE HOLD MANY OF THE CARDS IN COMMITTEE 1,
BUT NOT ALL.

D. THE MEMORANDUM DOES NOT EXPLAIN TO THE SECRETARY
WHY THE COMMITTEE 2 AND 3 TEXTS WILL IN FACT AFFECT OUR
ABILITY TO USE THE OCEANS EVEN IF THERE IS NO TREATY, OR THE
FACT THAT THE TEXTS ARE ALREADY BEING USED AS MODELS FOR
NATIONAL LEGISLATION. THE VITAL IMPORTANCE OF PRESERVING
THE FAVORABLE PROVISIONS, AND THE URGENT NECESSITY OF GETTING
DESIRED CHANGES ON THE STATUS OF THE ECONOMIC ZONE AND
SCIENTIFIC RESEARCH EVEN IF THERE IS NO TREATY, IS NOT DEALT
WITH IN SUFFICIENT DETAIL.

E. THE MOOD OF IDEOLOGICAL CONFRONTATION THAT LIES NOT
FAR BENETH THE SURFACE IN COMMITTEE 1 SHOULD BE EXPLAINED.
IN SOME MEASURE, THE PROBLEM IN COMMITTEE 1 IS THAT
IT HAS BECOME A SURROGATE NEGOTIATION FOR BOTH SIDES,
VEERING FAR FROM THE PARCTICAL QUESTION OF NICKEL MINING.
OUR OWN PUBLIC EMPHASIS ON THE BROADER ECONOMIC ISSUES
(ALTHOUGH OF COURSE VERY MUCH IN PLAY) MAY IN FACT BE
ADDING TO THE PROBLEM BOTH IN CONGRESS AND AMONG LDC'S;
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IN THIS SENSE, WE AND ALGERIA ARE DOING THE SAME THING.
THERE WERE HINTS IN MY DISCUSSIONS WITH THE IRANIANS THAT
THEY THINK WE ARE USING LOS FOR A SHOWDOWN WITH PRODUCERS OF
RAW MATERIALS GENERALLY. THE CANADIANS CERTAINLY SEEM TO HAVE
BEEN INADVERTENTLY (IF INCORRECTLY) TURNED ON IN PART BY SOME
OF OUR RHETORIC. I SEE NO RPT NO SOLUTION IN COMMITTEE 1
UNLESS IT IS TREATED AS AN ESSENTIALLY ISOLATED EXPERIMENT
OF LESS THAN EARTH-SHAKING CONSEQUENCE FOR THE LDC'S. WE CANNOT

PERSUADE THE LDC'S TO DO THIS UNLESS WE ADJUST OUR TONE ACCORDINGLY; IN FACT, OUR SUBSTANTIVE POSITIONS (E.G. VOTING IN THE COUNCIL) ARE VERY MUCH IN LINE WITH THIS NARROWER PRAGMATIC APPROACH.

F. THERE IS NOW SOME POSSIBILITY OF ACHIEVING SOME OF WHAT WAS SOUGHT IN SECRETARY RUMSFELD'S PROPOSAL. BY THIS, I DO NOT RPT NOT MEAN A TREATY WITHOUT COMMITTEE 1; I CONTINUE TO REGARD THIS AS A NON-STARTED AT LEAST FOR NOW. HOWEVER, WE MIGHT BE ABLE TO SAFELY ACHIEVE A "REPORTED" COMMITTEE 2 AND 3 TEXT, WHICH WOULD THEN BE HELD IN ABEYANCE PENDING COMPLETION OF COMMITTEE 1. THE ADVANTAGE IS THAT WE WOULD HAVE A RELATIVELY DECENT MODEL FOR STATE PRACTICE IN THE EVENT OF NO TREATY OR PROTRACTED NEGOTIATION, AND MINIMIZE THE POTENTIAL FOR CROSS-BARGAINING AGAINST TEXTS WE BASICALLY LIKE; THE DISADVANTAGE IS THAT WE MIGHT INCREASE THE PRESSURE ON US IN COMMITTEE 1 BY ALLOWING POTENTIAL TROUBLEMAKERS (E.G. INDONESIA) TO DIVERT FULL ATTENTION ONCE THEIR OVERRIDING PREOCCUPATIONS IN COMMITTEE 2 ARE RESOLVED. SIMILARLY, THE "LOSERS" IN COMMITTEE 2 (E.G. HARD-LINE STRAITS STATES) COULD THEN DEVOTE FULL ATTENTION TO WRECKING THE TREATY IN COMMITTEE 1.

3. SPECIFIC ISSUES NOT RAISED.

A. THE SECRETARY SHOULD BE ASKED TO MAKE A SPECIFIC DECISION ON THE NATURE AND FIRMNESS OF OUR POSITIONS ON LIBERATION MOVEMENTS AS THEY RELATE TO SIGNATURE, DISPUTE SETTLEMENT, RESOURCE RIGHTS, ETC. THE ARABS WILL MAKE A PUSH ON THE ISSUE, AND OUT REACTION WILL NECESSARILY BE WATCHED CLOSELY, PARTICULARLY SINCE THE ISSUE MAY STILL BE ALIVE WHEN THE SECRETARY COMES TO NY.

B. THE PROBLEM OF HOW TO TREAT STRAITS SUCH AS THE STRAIT OF TIRAN IS BY NO MEANS RESOLVED, AND COULD BLOW UP THE CONFERENCE OR OUR ABILITY TO RATIFY A TREATY. A SEPARATE
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MEMO WILL HAVE TO BE DONE ON THIS WHEN I RETURN, AS WE DO NOT YET HAVE THE LATEST EGYPTIAN VIEWS.

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ACTION SS-25

INFO OCT-01 ISO-00 SSO-00 /026 W
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FM AMEMBASSY CAIRO

TO SECSTATE WASHDC IMMEDIATE 5059

S E C R E T SECTION 2 OF 2 CAIRO 9232

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FOR S/AL AMBASSADOR LEARSON FROM OXMAN

4. SPECIFIC COMMENTS ON THE MEMO.

A. PAGE 3: LIST OF COUNTRIES NOT COMPLETE, E.G. ISRAEL, GREECE AND EGYPT.

B. PAGE 10-17: IF, AS SEEMED TO BE THE CASE WHEN I LEFT, A MEASURE OF AGREEMENT WAS EMERGING ON HOW TO TRY TO IMPROVE THE ACCESS SYSTEM--- AND IN PARTICULAR THE SUBSTANTIVE AND TACTICAL MERITS OF PROPOSAL 3 -- THEN IT MAY NOT BE NECESSARY TO GO INTO THE SPECIFICS IN SUCH DETAIL; SOME OF IT MIGHT GO INTO AN ANNEX.

C. PAGE 18. THE SECRETARY SHOULD BE REMINDED THAT THIS QUOTA POSITION MAY BREAK UP THE GROUP OF 5 ALTOGETHER, PARTICULARLY AT A TIME WHEN THE IDEA OF A "CONCERT OF INDUSTRIALIZED STATES" MAY BE AN ISSUE OF CURRENT DOMESTIC DEBATE IN THE U.S.

D. PAGE 19 AND 20. TWO ISSUES ARE CONFUSED. THE FIRST IS THE ABILITY OF THE ASSEMBLY TO INTERFEREWITH, BUT NOT OVERRULE, THE COUNCIL. OBVIOUSLY, THIS SHOULD BE MINIMIZED BUT IS HARDLY A CATASTROPHE SO LONG AS THE ASSEMBLY IS NOT FINAL. THE SECOND IS THE ABILITY OF THE ASSEMBLY TO MAKE DECISIONS BINDING ON THE COUNCIL; THIS MUST BE AVOIDED. IT IS USEFUL TO RECALL THAT COUNCIL RULES AND REGULATION MUST RECEIVE THE TACIT CONSENT OF THREE-FOURTHS OF THE SEATED PARTIES (ART. 28 (2) (XII)). I WOULD ALSO ADD THAT IF WE PUBLICLY LINK THIS ISSUE TO OUR PROBLEMS WITH THE UNGA, WE WILL

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FORCE THE LDC'S TO HARDEN THEIR POSITION.

E. WEIGHTED VOTING FORMULAS. WHAT HAPPENS IF SOME COMMODITIES OTHER THAN COPPER, NICKEL, COBALT AND MANGANESE ARE PRODUCED SOME DAY? DO WE BASE THE COUNCIL EXPRESSLY ON THESE METALS, AND FACE A TREATY REVISION LATER, OR DO WE SPEAK GENERALLY OF COMMODITIES FOR WHICH THERE IS SIGNIFICANT DEEP SEABED PRODUCTION (SPECIFICALLY INCLUDING THE FOUR METALS).

AND FACE SOMEWHAT UNPREDICATBLE CHANGE IN COUNCIL STRUCTURE?
ON THE ASSUMPTION THAT US CONSUMPTION IS GENERALLY LIKELY
TO BE HIGH IN ALMOST ALL CASES ANYWAY, I
WOULD OPT FOR THE SECOND FOR TWO REASONS: FIRST, IT MAKES
MORE SENSE IF THE UNDERLYING PRINCIPLE IS SOUND, AND SECOND,
IT MAY EASE THE NAGGING CONCERNS OF THE OIL PRODUCERS (E.G. IRAN),
THUS FACILITATING OTHER ASPECTS OF THE NEGOTIATION.

F. PAGE 27. WHATEVER THE MERITS OF OPTION 1, THE IDEA THAT THE
MAJORITY OF COUNTRIES -- DEVELOPED AS WELL AS DEVELOPING -- WOULD
ALMOST COMPLETELY TURN OVER THE ADMINISTRATION OF DEEP SEABED
MINING TO THE PRODUCERS AND CONSUMERS OF THE METALS INVOLVED
IGNORES THE POLITICAL ASPECTS OF THE COMMITTEE 1 NEGOTIATION.
THERE IS NO DOUBT THAT MANY ASPECTS OF THE COMMITTEE 1
PROBLEM ARE PRODUCER - CONSUMER ISSUES; BUT MANY OTHERS
ARE NOT-- AT LEAST NOT ENTIRELY. THIS POINT SHOULD BE MADE IN
THE CONS.

G. PAGE 41. WHATEVER WE MAY THINK OF IT, THE SECRETARY AT
LEAST SHOULD KNOW WHAT THE CONTINENTAL SHELF CONVENTION PROVIDES,
SO AS TO BETTER UNDERSTAND THAT IT IS MORE THAN JUST NEW
DEMANDS WE ARE UP AGAINST. HE SHOULD ALSO KNOW THAT THE
ARGUMENT ON THE ECONOMIC ZONE BY ANALOGY TO THE SHELF
CONVENTION -- I.E. RESEARCH CONTROL IS THE HANDMAIDEN OF
RESOURCE CONTROL -- WHILE NOT IN MY VIEW THE CORRECT CONCLUSION
IN THE ABSENCE OF A TREATY, IS NOT TOTALLY WITHOUT SUBSTANCE.
ACCORDINGLY, WE WILL HAVE TO FIGHT VERY HARD ON THE ISSUE--
REASONING ALONG WILL NOT WORK; AN ELEMENT OF WHAT OTHERS MAY
PERCEIVE TO BE TO BE ARBITRARY STUBBORNNESS WILL BE NECESSARY.

H. PAGES 48-51. THIS IS LONGER THAN NECESSARY.

I. PAGE 51. THE FIRST PARAGRAPH GIVES THE WRONG IMPRESSION.
OUR KEY OBJECTIVES FOR CDS IN THE ECONOMIC ZONE WERE ALWAYS
NAVIGATION, OVERFLIGHT, ETC, POLLUTION, AND SCIENCE; THE ISSUE
IS FISHERIES, AND THE SECRETARY SHOULD BE AWARE OF THIS.
MOREOVER, I'M NOT ABSOLUTELY CERTAIN FISHING RIGHTS ARE NOT
COVERED; ROMANOV HAS A POINT.

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J. PAGE 52. SINCE I RECOMMEND THAT WE PUT THE LIBERATION
MOVEMENT ISSUE SQUARELY TO THE SECRETARY, HIS DECISION SHOULD
GOVERN OUR APPROACH TO PRIVATE ACCESS. IF HE DECIDES AGAINST
ACCESS FOR SUCH MOVEMENTS, REOPENING THE PRIVATE ACCESS
ISSUE WOULD RESULT IN SIGNIFICANT PERIL TO HIS DECISION; TACTICALLY,
WE WOULD PROBABLY BE COMPELLED TO SETTLE FOR WHAT IS IN
THE TEXT NOW ON PRIVATE ACCESS, NAMELY; COMMITTEE 1 , SPECIAL
AGREEMENTS, AND VESSEL RELEASE. SENATOR CASE WAS QUITE STRONG
ON THE LIBERATION MOVEMENT ISSUE, AND OPENLY ACCEPTED THE
CONSEQUENCE OF LIMITED PRIVATE ACCESS.

K. PAGE 57. DELETE THE LAST SENTENCE. IT IS NOT ACCURATE,
AND COULD BADLY DAMAGE US BOTH IN THE NEGOTIATIONS, AND IN THE
EVENT OF NO TREATY, IF LEAKED OR EVENTUALLY DECLASSIFIED.

L. PAGE 70. IT IS NOT CLEAR TO ME WHEN (B) WOULD BE IMPLEMENTED

IF SOMETHING OTHER THAN WHAT WE ARE ALREADY DOING IS INTENDED.

M. PAGE 71. SECOND FULL SENTENCE. USING THE LL/GDS TOO HEAVILY ON THE HIGH SEAS ISSUE COULD BACKFIRE. MANY CONSTAL STATES ARE RESISTING HIGH SEAS STATUS PRECISELY BECAUSE IT MAY IMPLY CONCESSIONS TO THE LL/GDS ON COASTAL RESOURCES, WHEN WE ARE NOT RPT NOT SEEKING TO WATER DOWN COASTAL STATE RESOURCE RIGHTS. THE FOLLOWING IS A BIT OPTIMISTIC WHEN WE CONSIDER THE NUMBER OF RESPECTABLE US LAWYERS AND LEGAL ORGANIZATION THAT CONSTRUE THE SHELF CONVENTION AS ALREADY CONVERING THE ENTIRE MARGIN.

N. PGE 78 ET SEQ. THERE IS AN ASSUMPTION HERE THAT OTHER FOREIGN MINISTRS WILL BE MORE "STATESMANLIKE" (I.E. FLEXIBLE) THAT THEIR SUBORDINATES. THAT MAY BE TRUE REGARDING LOS ISSUES THEY DON'T CARE ABOUT, BUT WHAT OF THE POTENTIAL FOR REQUESTS FOR UNRELATED QUID PRO QUO'S FROM THE SECRETARY? WHAT DO WE SIGNAL IF THE SECRETARY REFUSES TO CROSS-BARGAIN? MULTILATERAL RATHER THAN BILATERAL MEETINGS MIGHT REDUCE THIS PROBLEM SOMEWHAT.

O. PAGE 80. SECOND PARA. WE MAY HAVE TROUBLE PERSUADING AMERASINGHE TO DO THIS. MOREOVER, THE COOUNTIES NEEDED VARY FROM ISSUE TO ISSUE. AS STRUCTURED, THE GROUP INVITES A REOPENING OF ISSUES WE WISH TO CONSIDER SETTLED,

E. G.: STRAITS. I WOULD BE MORE RELAXED IF WE FOCUSED A GROUP ON COMMITTEE 1, WHERE THE PROBLEM IS LIKELY TO BE, AND TREAT THE OTHER ISSUES AD HOC OR BILATERALLY.
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Message Attributes

Automatic Decaptioning: Z
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LAW OF THE SEA, DOCUMENTS, MEETINGS
Control Number: n/a
Copy: SINGLE
Draft Date: 08 JUL 1976
Decaption Date: 28 MAY 2004
Decaption Note: 25 YEAR REVIEW
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: ElyME
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976CAIRO09232
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: n/a
Film Number: D760263-0382
From: CAIRO
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760781/aaaacssy.tel
Line Count: 302
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION SS
Original Classification: SECRET
Original Handling Restrictions: STADIS
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 6
Previous Channel Indicators: n/a
Previous Classification: SECRET
Previous Handling Restrictions: STADIS <MCM 20040603 CORRECTED>; STADIS, EXDIS
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: ElyME
Review Comment: n/a
Review Content Flags:
Review Date: 08 JUN 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <08 JUN 2004 by ellisoob>; APPROVED <06 OCT 2004 by ElyME>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: <DBA CHANGED> MCM 20040603
Subject: LOS
TAGS: PLOS, XX
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006